

## Susannah Torpey Discusses Antitrust Employment Issues with Law360

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Antitrust Partner Susannah Torpey was quoted in the Law360 article “DOJ’s No-Poach Stance Attaches Big Risk to Nuanced Issue,” published on February 9, 2018. The article discusses impending criminal prosecutions from the U.S. Department of Justice’s (DOJ) Antitrust Division, targeting employment issues.

Susannah explains that some companies may have been waiting to see if the new administration would follow up on the DOJ and FTC’s 2016 guidance before allocating more resources to antitrust employment issues. “I suspect that a lot of companies that were sort of sitting on the sidelines to see if this would go forward or not are potentially going to be quite motivated to really run, not walk, to see if they might have anything that has potential criminal implications. Your executives can literally be put in jail,” she says.

According to the article, penalties could be significant if they are associated with a large number of employees, and might multiply substantially if applied to benefits beyond wages. “They might have a whole new class of plaintiffs to consider, and those are their own employees,” Susannah notes.

When discussing the DOJ’s amnesty program, which offers some protection for those that provide the government with information about anti-competitive conduct, Susannah explains that businesses have to weigh very delicately the choice to come forward in terms of overall exposure, and the nature of the restraints.

Susannah also weighs in on a recent DOJ investigation and settlement with tech giants and Pixar Animation Studios over allegations that executives agreed not to try to poach one another’s workers, noting that this case and others show that the conduct leading to these types of agreements can come from the very top of a company’s corporate structure, a place not normally scrutinized for antitrust issues.

“A lot of them have always focused on the sales force and your more traditional price-fixing contexts, like fixing prices for products. Companies are really comfortable training and investigating in that particular area, but now they’ll really have to switch those resources to look at different places where these types of arrangements spring up, which is quite different,” she says.

1 Min Read

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[Susannah Torpey](#)